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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 United States of America,

10 Plaintiff,

11 v.

12 2901 W Dakota St., Tucson, AZ,

13 Defendant.
14

No. CV-23-00219-TUC-JCH

WRIT OF ENTRY

15 On May 9, 2023, the United States filed a verified Complaint for Forfeiture *in Rem*.
16 Doc. 1. Before the Court is the government's Motion for Writ of Entry. Doc. 5. Specifically,
17 the government moves for a Writ of Entry, under U.S.C. §§ 983(j) and 985(b), for the
18 purpose of inspecting and appraising the Defendant Property located at 2901 West Dakota
19 Street, Tucson, Arizona. Doc. 5 at 1. The Defendant Property's legal description is:
20 LOT 160 OF MANZANITA TERRACE, A SUBDIVISION OF PIMA
21 COUNTY, ARIZONA, ACCORDING TO THE MAP OR PLAT OF
22 RECORD IN THE OFFICE OF THE COUNTY RECORDER OF PIMA
23 COUNTY, ARIZONA, IN BOOK 24 OF MAPS AND PLATS AT PAGE 8;
EXCEPT ALL COAL AND OTHER MINERALS AS RESERVED IN THE
PATENT FROM THE UNITED STATES OF AMERICA

24 Doc. 1 at 2.

25 The United States asserts that issuance of such a writ is authorized by 18 U.S.C.
26 §§ 983(j) and 985(b)(2). *See* Doc. 5. Section 983(j)(1), applicable to civil forfeiture
27 proceedings, authorizes a court to "appoint ... appraisers ... or take any other action to ...
28 secure, maintain, or preserve the availability of property subject to civil forfeiture (A) upon

1 the filing of a civil forfeiture complaint alleging that the property with respect to which the
 2 order is sought is subject to civil forfeiture." 18 U.S.C. §§ 983(j)(1). While the section does
 3 not expressly mention writs of entry, such writs may protect the plaintiff's interest in the
 4 property by creating a disincentive for owners to harm, or skim fixtures from, the property.
 5 *See generally* 18 U.S.C. § 2232(a) (making it a felony to knowingly damage or waste
 6 property subject to forfeiture); *see also* 18 U.S.C. § 2232(b) (prohibiting any action that
 7 would impair the Court's *in rem* jurisdiction over property that is subject to forfeiture).

8 The government submits that a writ is necessary for the purpose of conducting an
 9 inspection and inventory of the property, including by means of still and video
 10 photography. Doc. 5 at 2. According to the government, "[w]ithout such an inspection, it
 11 will be difficult to "secure, maintain or preserve the availability of property that is subject
 12 to forfeiture pursuant to the complaint. Additionally, absent such an inspection, there will
 13 not be any accurate record of the property's condition, should any disputes concerning its
 14 condition or preservation arise." *Id.* (internal quotations omitted). As to notice, Section
 15 983(j)(1)(B) requires *inter alia* notice to, and an opportunity to be heard by, persons
 16 appearing to have an interest in the property. The statute does not impose these
 17 requirements if the order is issued after the Complaint is filed. *Id.* § 985(j)(1)(A). Thus, the
 18 Court will grant the motion.¹

19 Accordingly,

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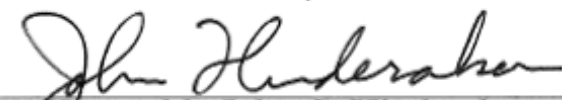
27 _____
 28 ¹18 U.S.C. § 985(b)(2) provides "[t]he filing of a *lis pendens* and the execution of a writ of entry for the purpose of conducting an inspection and inventory of the property shall not be considered a seizure under this subsection."

1 **IT IS ORDERED GRANTING** the government's Motion for Writ of Entry
2 (Doc. 5). **IT IS FURTHER ORDERED** that the Drug Enforcement Administration
3 ("DEA"), United States Marshals Service ("USMS"), or their designee or authorized
4 contractor (collectively the "Government") are hereby authorized:

- 5 1. to enter the Defendant Property, including any structures, on one or more
6 occasions during the pendency of this in rem forfeiture action against the
7 Defendant Property, for the purpose of conducting an inspection and
8 inventory and appraisal of Defendant Property, and
- 9 2. to be accompanied on any such occasion by any appraiser(s) selected by it
10 for the purpose of appraising the condition and value of the Defendant
11 Property pursuant to 18 U.S.C. § 985(b)(2), 18 U.S.C. § 983(j), and 19 U.S.C.
12 § 1606, which appraisal may include, among other means, still and video
13 photography, and
- 14 3. to be accompanied on any such occasion by any Government and contract
15 personnel selected by it for the purpose of conducting an inspection and
16 inventory of Defendant Property, which inspection and inventory may
17 include, among other means, still and video photography, and
- 18 4. to be accompanied on any such occasion by any federal, state, and local law
19 enforcement officers selected by it to ensure the safety of personnel acting
20 under this Writ of Entry.

21 Any interference with anyone acting under the authority of this Writ of Entry shall
22 be deemed a violation of a Court order and may be punished as a contempt, as a violation
23 of 18 U.S.C. § 2232 prohibiting the impairment of *in rem* jurisdiction, or otherwise as
24 provided by law.

25 Dated this 15th day of May, 2023.

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27 
28 Honorable John C. Hinderaker
United States District Judge